



# PUBLIC NOTICE

Federal Communications Commission  
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Report No. SPB-244

DA 12-1604  
October 10, 2012

## FEDERAL COMMUNICATIONS COMMISSION INVITES COMMENT ON LIGHTSQUARED REQUEST FOR RELIEF FROM BUILD-OUT CONDITIONS

IB Docket No. 12-296

**Comments/Petitions to Deny Due: November 9, 2012**

**Oppositions Due: November 19, 2012**

**Replies Due: November 28, 2012**

This Public Notice seeks comment on the request by LightSquared Subsidiary LLC and One Dot Six Corp. (referred to collectively in this Notice as “LightSquared”) that the Federal Communications Commission (“Commission”) declare that the build-out milestones in the *Harbinger Transfer Order*<sup>1</sup> no longer apply.<sup>2</sup>

In March 2010, as part of the Commission’s approval of the acquisition of SkyTerra Communications, Inc. and its subsidiaries and affiliates (“SkyTerra”) by investment funds managed by Harbinger Capital Partners (“Harbinger”), the Commission adopted a set of conditions, including one that required SkyTerra (which Harbinger renamed LightSquared after the acquisition) to meet stringent build-out and coverage milestones for a network to provide mobile broadband services to the public.<sup>3</sup> Another condition requires LightSquared to provide terrestrial coverage to at least 100 million people in the United States by December 31, 2012.<sup>4</sup> Additional milestones require LightSquared to provide terrestrial coverage to at least 145 million people in the United States by December 31, 2013, and to at least 260 million people in the United States by December 31, 2015.<sup>5</sup>

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<sup>1</sup> *SkyTerra Communications, Inc., Transferor and Harbinger Capital Partners Funds, Transferee*, Memorandum Opinion and Order and Declaratory Ruling, IB Docket No. 08-184, 25 FCC Rcd 3059 (2010) (“*Harbinger Transfer Order*”).

<sup>2</sup> Letter from Jeffrey J. Carlisle, Executive Vice President, Regulatory Affairs and Public Policy, LightSquared Inc., to Marlene H. Dortch, Secretary, FCC, dated September 24, 2012 at 1 (“*September 24 Letter*”) (filed as an attachment to pending requests).

<sup>3</sup> *Harbinger Transfer Order* at ¶ 72 and Attachment 2.

<sup>4</sup> *Harbinger Transfer Order* at Attachment 2, ¶ 5.

<sup>5</sup> *Id.*

LightSquared requests a declaration that these milestone conditions no longer apply in light of events that have transpired since the release of the *Harbinger Transfer Order*. LightSquared argues that its ability to provide terrestrial coverage has been constrained by the need to resolve interference concerns relating to the operations of Global Positioning System (GPS) satellite services in adjacent frequency bands. In particular, LightSquared states that its ability to provide terrestrial coverage using an Ancillary Terrestrial Component (“ATC”) has been rendered uncertain by the Commission’s proposal in February 2012 to suspend indefinitely or revoke all of the ATC authorizations on which LightSquared’s terrestrial network relies.<sup>6</sup> LightSquared asks for a declaration from the Commission that the build-out milestones in the *Harbinger Transfer Order* no longer apply, and that LightSquared is relieved of those conditions until the status of LightSquared’s ATC authorizations is clarified.<sup>7</sup>

LightSquared’s request is submitted as part of the following applications (collectively, the “Applications”):

<u>File Number</u>	<u>Call Sign/Lease ID</u>
SAT-MOD-20120927-00158	AMSC-1
SAT-MOD-20120927-00159	S2358
SES-MOD-20121001-00888	E930367
SES-MOD-20121001-00889	E980179
SES-MOD-20121001-00890	E100051
SES-MOD-20121001-00891	E930124
SES-MOD-20121001-00892	E080031
SES-MOD-20121001-00893	E080030
ITC-MOD-20120927-00246	
0005424201	L000007295
0005424221	WQMN726
0005424280	WQHL596
0166-EX-ML-2012	WF2XSA

## PROCEDURAL MATTERS

This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>8</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made,

<sup>6</sup> *September 24 Letter* at 3. This proposal is currently pending before the Commission. *See also Public Notice: International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver*, IB Docket No. 11-109, DA 12-214 (rel. February 15, 2012).

<sup>7</sup> *September 24 Letter* at 3.

<sup>8</sup> 47 C.F.R. §§ 1.1200 *et seq.* The Commission, or Bureau staff pursuant to delegated authority, may adopt modified *ex parte* procedures in particular proceedings “where the public interest so requires.” 47 C.F.R. § 1.1200(a). We find that designating this proceeding as permit-but-disclose will serve the public interest by allowing for broader participation and ensuring that the Commission benefits from a comprehensive record.

and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

The Applications have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective or not in conformance with the Commission's rules or policies. Final action on the Applications will not be taken earlier than thirty-one (31) days following the date of this Public Notice.<sup>9</sup>

Interested parties must file petitions to deny or comments no later than **November 9, 2012**. Responses or oppositions to comments and petitions must be filed no later than **November 19, 2012**. Replies to such pleadings must be filed no later than **November 28, 2012**. All filings concerning matters referenced in this Public Notice should refer to **DA 12-1604, IB Docket No. 12-296**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

To allow the Commission to consider fully all substantive issues regarding the Applications in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.<sup>10</sup> A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.<sup>11</sup>

Submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by mail.

- **Electronic Filers:**<sup>12</sup> Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties also may submit an electronic comment by Internet e-mail.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing.

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<sup>9</sup> See 47 U.S.C. § 309(b).

<sup>10</sup> See 47 C.F.R. §1.45(c).

<sup>11</sup> See *id.*

<sup>12</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Red 11322 (1998).

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com) or (202) 488-5563 (facsimile).

Copies of the Applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). The Applications also are available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

People with Disabilities: To request materials in accessible formats (computer diskette, large print, audio recording, and Braille) send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact:

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Wireless Telecommunications Bureau: Paul Murray, at [Paul.Murray@fcc.gov](mailto:Paul.Murray@fcc.gov) or (202) 418-0688.

Action by the Chief, International Bureau.

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